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NASA Procedural Requirements

COMPLIANCE IS MANDATORY**NPR 2190.1B**
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Request Notification of Change

 (NASA Only)**Subject: NASA Export Control Program****Responsible Office: Export Control & Interagency Liaison Division**[| TOC](#) | [Preface](#) | [Chapter1](#) | [Chapter2](#) | [Chapter3](#) | [Chapter4](#) | [Chapter5](#) | [Chapter6](#) | [Chapter7](#) |
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Chapter 5. International Traffic in Arms Regulations (ITAR) Procedures

5.1 General

5.1.1 In general, articles and services deemed to be defense articles and defense services, and so designated by the USML, are subject to the ITAR. Launch vehicles, spacecraft, and satellites are on the USML. Designations of defense articles are made by the DoS, with the concurrence of the DoD. For more information, refer to the ITAR.

5.1.2 The USML of the ITAR contains 21 generally described categories of controlled commodities, technical data, and services subject to the ITAR. Two categories particularly relevant to NASA activities are: Category IV-Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines; and Category XV-Spacecraft Systems and Associated Equipment.

5.1.3 Any person who engages in the United States in the business of either manufacturing or exporting defense articles or furnishing defense services is required to register with the DoS DDTC. Any person who intends to export or to import temporarily a defense article must obtain the approval of DDTC prior to the export or temporary import, unless the activity qualifies for an Exemption (See paragraph 5.3).

5.2 Imports

5.2. Notably, unlike the EAR, the ITAR contains provisions governing certain imports of defense articles, including IVL requirements and License Exemptions. In most cases, temporary imports of USML-listed defense articles by NASA are eligible for ITAR License Exemptions. Permanent imports by NASA of USML-listed defense articles are regulated by the Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms; such permanent imports do not require a license.

5.3 Procedures for Determining ITAR License Requirements and License Exemption Eligibility

5.3.1 Procedures are delineated in the following decision tree:

- a. To determine items License Exemption eligibility under the ITAR, first classify the item on the USML and review the Exemptions listed below. If any Exemption applies, a license is not required, but the exporter may have to file a Shipper's Export Declaration (SED) or make an entry in AES and other documents, in accordance with the ITAR.
- b. ITAR License Exemptions may not be used to export any items to Proscribed Countries or nationals of Proscribed Countries. Prohibitions may be due to United Nations Security Council embargoes, Secretary of State determination that certain countries have repeatedly provided support for acts of international terrorism, or whenever an export would not otherwise be in furtherance of world peace and the security and foreign policy of the United States. Comprehensive arms embargoes are normally published by the State Department in the Federal Register.
- c. If an Exemption is not available for a proposed export, an ITAR export license must be obtained. DTC provides

three ways to submit license requests, but electronic submission through D-Trade is required for most license requests. The following forms are appropriate for items on the USML:

- (1) For temporary exports and transfers of unclassified items, use Form DSP-73, Application/License for Temporary Export of Unclassified Defense Article.
- (2) For permanent exports and transfers of unclassified items, use Form DSP-5, Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data.
- (3) For exports and transfers of all classified items, use Form DSP-85, Application for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Related Classified Technical Data.
- (4) For temporary imports of unclassified items, use Form DSP-61, Application/License for Temporary Import of Unclassified Defense Articles.

5.3.2 All ITAR license requests and other relevant license application information must be sent through the CEA to the HEA at NASA Headquarters for submission of licenses.

5.4 License Exemptions

5.4.1 Numerous special conditions may exist that might permit the use of an ITAR License Exemption. Exemptions may apply due to the nature of the defense article or defense service, the destination, or the status of the exporting entity (i.e., U.S. Government agencies enjoy more permissive treatment under the ITAR than private companies). The details for Exemptions are found in the ITAR. Generally, any use of an ITAR License Exemption requires an international agreement or contract, as well as coordination with the CEA or HEA.

5.4.2 Following is a summary of License Exemptions found in the ITAR that are relevant to NASA activities:

a. Publicly Available Information about Defense Articles. May be used for exports of publicly available information about defense articles. This Exemption is applicable to information approved by NASA for public release in any form. It does not require that the information be published in order to qualify for the Exemption.

b. Technical Data Returned to Sender. May be used for exports of technical data being returned to the original source of import.

c. Exports by or for U.S. Government Agencies. Temporary import or temporary export of any defense article, including technical data or the performance of a defense service, by or for NASA:

- (1) For NASA's official use or,
- (2) For carrying out a NASA cooperative program.
- (3) The Exemption applies only when all aspects of a transaction (export, carriage, and delivery abroad) are effected by a U.S. Government agency or when the export is covered by a GBL. DDTC approval must be obtained before defense articles previously exported pursuant to this Exemption are permanently transferred, unless the defense articles have been rendered useless for military purposes beyond the possibility of restoration. Note: For purposes of this Exemption, defense articles exported for incorporation into a foreign launch vehicle or for use on a foreign launch vehicle or satellite that is to be launched from a foreign country are permanent exports.

d. Imports and Exports for Use by U.S. Government agency abroad. Export or temporary import of defense articles, including technical data and performance of a defense service, for end use by a U.S. Government agency in a foreign country, if:

- (1) The export or temporary import is pursuant to a contract with NASA or NASA-written direction.
- (2) The end user in the foreign country is a U.S. Government agency or facility, and the defense articles or technical data will not be transferred to any foreign person.
- (3) The urgency of the U.S. Government requirement is such that the appropriate export license or GBL could not have been obtained in a timely manner.

e. Operation Technical Data Exports for Lawfully Exported Articles. Exports of technical data in the form of basic operations, maintenance, and training information relating to a defense article lawfully exported or authorized for export to the same recipient.

f. Technical Data Exports Directed by NASA. Exports of technical data in furtherance of a contract between the exporter and NASA, where the contract provides for the export of the data and the data does not disclose the details of design, development, production, or manufacture of any defense article.

g. Plant Visits. Disclosures to Foreign Persons of unclassified technical data during the course of a plant visit approved by NASA, provided the technical data does not contain information in excess of that approved for disclosure and does not include information required for design, development, production, or manufacture of a defense article.

- h. Exports of Parts, Components, and Models. Exports of parts and components when the total value does not exceed \$500 and parts are exported to support a defense article previously authorized for export, to a previously approved end user, and not to be used to enhance the capability of the defense article. Also permits export of unclassified models or mock ups of defense articles, provided they are inoperable, do not reveal any detailed design, development, production, or manufacturing technical data, and do not contain USML-listed components.
- i. Canadian Exemption. Most temporary imports from (and subsequent reexports to) Canada of defense articles are eligible for this Exemption. Certain limited exports of defense articles and defense services to Canada and Canadian nationals are also permitted, subject to specific agreement and reporting requirements. This exemption specifically excludes items under Category XV of the ITAR.
- j. Temporary Imports. Temporary import for up to four years (and subsequent reexport to sending country) of unclassified U.S.-origin defense items (and items manufactured abroad with U.S. Government approval) for items serviced, inspected, tested, calibrated, repaired, or imported for the purpose of exhibition in the U.S.
- k. Technical Data Authorized by Written DTC Waiver. Exports of technical data for which the exporter, pursuant to an agreement with NASA, requires such exports, has been granted an Exemption in writing by DTC. This Exemption will normally be granted only if the arrangement directly implements an international agreement to which the United States is a party and if multiple exports are contemplated.

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